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SIPDIS

SENSITIVE

SECSTATE PLEASE PASS TO US TRADE REPRESENTATIVE

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SUBJECT: MOL UNDERSTANDS NEED FOR LABOR CODE REFORM

1. (SBU) Summary: While Minister of Labor Izurieta understands the need for labor code reform, he is not focused on freedom of association issues. The Embassy has made it clear to Izurieta that the U.S. Congress is less likely to pass a Free Trade Agreement (FTA) including Ecuador unless the labor code is reformed to address freedom of association weaknesses. Izurieta said the GoE is working with Congress and the International Labor Organization (ILO) on labor code reform. We have offered technical assistance to help focus these reforms on freedom of association issues, and move labor code reform forward. End Summary.

Embassy Reiterates Congressional Concerns on Labor

2. (SBU) PolChief and LabOff met with Minister of Labor Raul Izurieta on December 16 to reiterate USG concern that significant labor reform is necessary to bring the GoE into compliance with its ILO commitments. Without this type of reform, the U.S. Congress would be unlikely to approve an FTA with Ecuador. To provide concrete examples of areas needing reform, we shared with Izurieta copies of ILO recommendations for reform, as well as the Human Rights Watch and US/LEAP petitions for the Andean Trade Preferences Act (both of which LabOff had previously provided to Izurieta) that outline weaknesses in Ecuadorian labor law. We also provided Izurieta with another copy of the March 5 letter from 34 members of the U.S. Congress to Minister of Trade Ivonne Baki, highlighting the concluding phrases which refer to the need for significant labor reform in Ecuador in order for the U.S. Congress to approve an FTA. PolChief noted the current pro-government Congressional majority and asked whether the GoE was considering using this majority for labor code reform.

MOL Working on Labor Code Reform...

3. (SBU) Izurieta said that he fully understood the need for labor reform and currently has a consultant working on a reform proposal by December 30. Izurieta said he intends to present these reform proposals to the National Labor Council for discussion, to be followed by submission to Congress. Izurieta described his 12-point labor reform priority list which included replacing profit sharing with other benefits such as travel benefits, housing loans and educational scholarships for workers' families, replacing private retirement schemes with public ones, and having employers contribute at higher rates to Social Security. Izurieta said getting rid of private retirement schemes will help workers, because currently many workers are fired before being vested in retirement benefits after 25 years with a company. Izurieta's list did not include any freedom of association issues and he stated he did not believe there were any laws impeding the formation of unions. Izurieta said most workers choose of their own volition not to join a union because this could put their employment at risk.

...Yet Key Issues Not Addressed

4. (SBU) We explained that while important, Izurieta's reform priorities were not likely to be recognized as "significant" in the context of U.S. Congressional debate of an FTA including Ecuador. More likely to be considered significant would be steps addressing the ILO's call for reduction of the 30-person minimum to form a union, the right to reinstatement for workers illegally fired for union activity, authorization of industrial unions, and protections against anti-union discrimination in hiring. Izurieta said he would review the documents we provided to see how these concerns could be addressed.

5. (SBU) On "industrial" or sector-wide unions, Izurieta said these already existed without the sanction of the law. He cited the example of the national drivers union as a de facto industrial union. The AFL-CIO Solidarity Center in Ecuador confirmed to us that this sector-wide union does exist, as well as province-wide unions in the banana industry (with a goal to form a nationwide union). However, when flower workers tried to form a sector-wide union, they were denied by the current Minister. (Izurieta said the labor

code neither permits nor prohibits sector-wide unions.)

Other Upcoming Issues

16. (SBU) According to Izurieta, Andres Paez, President of the Labor Committee in Congress, will attend an upcoming National Labor Council meeting to discuss Paez' proposed subcontracting law. However, Izurieta is concerned that Paez will not retain the Labor Committee Chair after the January 5 reshuffle of Congressional leadership positions. Izurieta also said he is in close contact with the ILO on employment issues. Izurieta stated that the upcoming restructuring of the Ministry of Labor will focus on promoting employment and improving worker training programs. We suggested greater collaboration with the ILO on freedom of association issues.

Comment

17. (SBU) Unions already view Izurieta as biased in favor of business and Izurieta's reform proposals will reinforce this view. To help refocus the Minister's energies on more significant reforms, we are exploring the possibility of offering technical assistance on labor code reform through USAID. We will also explore the possibility of having a Chilean expert on labor reform visit Ecuador to share that country's experiences. Meanwhile, we have encouraged private and direct dialogue between key labor and business leaders, to explore the possibilities of a shared labor/business reform agenda. The current Congressional majority is fragile, and the government is not in a position to impose any labor agenda without labor or business support.

KENNEY